

# ELDER LAW TODAY

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## *The Importance of Medicaid Planning From a Nursing Home's Perspective*

Many people share a common misconception that Medicaid Planning is not in the best interest of nursing homes. At the same time, many nursing homes are now recognizing that without proper Medicaid planning, some residents who have spent down all of their assets are not automatically qualified for Medicaid, leaving the nursing home with a very large, uncollectible bill. And, as many of you are aware, non-spouse family members are not responsible to pay the nursing home bill for their relative. If the resident is unable to pay and they do not qualify for Medicaid, the nursing home will have a difficult (if not impossible) task in collecting their outstanding bill due. Let me give you a couple of examples (actual cases we have had where nursing homes have suffered due to the lack of Medicaid planning):

**Scenario one:** A Kansas nursing home placed a call to an Elder Law attorney regarding one of their residents who had a bill that was over \$17,000 in arrears. They reported that several months ago, the resident had spent down all of her assets to less than \$999 and had applied for Medicaid. However, her application had just been denied and the resident now had a \$17,000 bill and no money to pay it! The nursing home had just learned that the application was denied because the resident owned a piece of "worthless land" in another state that she has been trying to sell for over a year.

Although this resident had been listing her property for sale for over a year (offering the land at "best offer"), she had not received any offers. In that sense, the land truly was worthless. However, as the attorney explained to the nursing home, the property was appraised at \$10,000 and therefore was considered a "countable" asset, regardless of the resident's inability to sell it. The attorney took the issue to a fair hearing (feeling like the nursing home did, that it was unfair to the resident who was doing all she could to sell the land), however the resident died in the interim and the estate did not wish to continue the appeal. The nursing home was therefore "stuck" with a \$17,000 bill.

With proper Medicaid planning, the resident would not have applied prior to disposing of the land and would have qualified upon application. In addition, the nursing home would never have incurred such a large bill.

**Scenario two:** An Elder Law attorney received a call from the daughter of a Kansas nursing home resident who had just been denied Medicaid. Her mother also had spent all of her money and applied for Medicaid. Both the resident and the nursing home assumed the resident's application would be approved and the daughter who called the attorney was sitting on nursing home bills and medical bills totaling over \$11,000! The problem in this case: although mom had less than \$2,000 in her bank account, she had an insurance policy with a face value of \$3,000 and a cash value of \$2,500. Everyone assumed this policy would be exempt. In Kansas, however, if an individual has life insurance with a face value of more than \$1,500, then the cash value of the policy is considered a countable asset.

**THE BOTTOM LINE:** Proper Medicaid Planning is beneficial to both the resident AND the nursing home.

### *Services Available*

Adrian & Pankratz, P.A. offers the following Elder Law services:

Division of Assets	Long Term Care Planning
Guardianship	Powers of Attorney
Estate Planning	Wills
Living Trusts	Special Needs Trusts



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